

1860-005 Chancery Causes: William A. Jones & wife vs. Joseph Ely, assign to  
Lee Co.

Crabtree, Garrett, Wooliver, Thompson, Haburn, 11

CA - Debt  
T - Property



To the Honorable Samuel V Fulkerson, Judge of the circuit  
court of Lee County. The bill of complaint of William A  
Jones & Manasha Ann Jones his Wife formerly Manasha  
Ann Haburn, respectfully represents, that at the June  
term of the County court of Lee County 1859. a judgment  
at law was obtained by one Joseph Ely  
assignee of James Crabtree against your Orator and  
Oratrix for the sum of \$400-<sup>100</sup>/<sub>100</sub> besides interest and  
costs, which judgment your Orator & Oratrix conceive  
ought to be perpetually enjoined. To shew which,  
your Orator & Oratrix would beg leave to state that  
the note declared on, upon which said judgment  
is founded was executed by your Oratrix whilst a  
feme sole together with James F Jones as her surety in  
said note, to said Crabtree in part consideration of  
a certain tract or parcel of land situated in Lee  
County on the head of Shavers Creek, containing  
460 acres, which tract of land the said James  
Crabtree and Martha his Wife bargained and  
sold to your Oratrix whilst a feme sole for the  
sum of \$3000-00 and the said note upon which  
said judgment is founded is in part the last pay-  
ment of the said purchase money, and the said  
James Crabtree & Wife on the 19<sup>th</sup> day of October 1857  
executed to your Oratrix a deed with covenants, of  
General Warranty for said 460 acres of land, <sup>a copy of</sup> which  
and will hereafter be filed as part of this bill marked  
(A). At the time of the purchase of said <sup>tract of</sup> land by  
your Oratrix, and at the time of the execution of  
said deed by said James Crabtree & Wife to your  
Oratrix she believed the title of said <sup>460 acres of</sup> land to be  
good as was represented by said Crabtree & Wife. The  
said James Crabtree & Wife have removed to the  
State of Texas, and have left no property in  
this Commonwealth, and are regarded to be worth but



little or no property where they now reside. Your Orator and Oratrix Would beg leave to state that since the said Crabbie & Wife removed from this Country - they have to their great surprise, learned that James Garrett of Lee County claims right to about 90 or 100 acres of the said 460 acre tract purchased as aforesaid by your Oratrix from said Crabbie & Wife which land thus claimed by said Garrett is worth at the least \$1000.00. The said Garrett alleges that the said Crabbie contracted verbally with him for said 90 or 100 acres of land and never paid him for it, and that he the said Garrett had not conveyed said land to said Crabbie, and would not convey the same either to the said Crabbie or to your Oratrix & Orator, and the said Garrett is now threatening to bring suit to dispossess your Orator & Oratrix of said land. Your Orator and Oratrix Would further state that if the contract between said Crabbie & Garrett is one that the contract can be enforced in a court of equity so as to extract from the said Garrett the legal title of said 90 or 100 acres of land - in that event still the land will be liable for the purchase money thereof claimed to be due to said Garrett, which together with the legal interest will more than cover the amount of said judgment recovered by said Joseph Ely assignee &c as aforesaid - and it would be unjust for your Orator & Oratrix to have to pay said judgment - being \$400.00 besides interest and costs as aforesaid to said Ely assignee &c, it being a balance of the \$3000. that said Oratrix contracted to give for said 460 acre tract of land, and that she should also be compelled to pay to said Garrett the purchase money due to him from said Crabbie for said 90 or 100 acres of land as aforesaid

your Orator & Oratrix further aver that George Woolver & Mary his wife, Daniel Thompson & Emily his wife, John Garrett & Wm Garrett, heirs at law of Luke Garrett Deed are claiming right to about 40 acres of said 460 acre tract of land sold by said Crabbie to your Oratrix as aforesaid which 40 acres is well improved and worth \$400.00. The said heirs of Luke Garrett say that said 40 acres was owned by said Luke Garrett in his lifetime, and that the said Luke never conveyed the said 40 acres to said Crabbie, or to any other person, and that at the death of said Luke the legal title to said 40 acres of land vested in them as the legal heirs of said Luke Garrett Deed, and that they never have conveyed their said interest in said 40 acres of land to said Crabbie or any other person & that they are also now threatening to bring suit for the purpose of recovering the possession thereof. Your Orator & Oratrix further aver that the said heirs of Luke Garrett Deed are also claiming right to about 10 acres more of said 460 acre tract of land sold by said Crabbie to your Oratrix. The said heirs of said Luke say that said 10 acres was laid off to Nancy Garrett the widow of said Luke Garrett Deed as her dower out of a certain tract of land owned by said Luke in his lifetime and that said land was never conveyed by said Luke in his lifetime to said Crabbie, or to any other person, and the said heirs of said Luke say that they have never conveyed the same to said Crabbie <sup>since the death of said Luke</sup> or to any other person. Your Orator & Oratrix aver that said 10 acres being the dower of Nancy Garrett is in the bounds of the 460 acre tract sold by said Crabbie & Wife to your Oratrix - They further aver that said 10 acres is well improved with comfortable buildings & an apple & peach Orchard thereon, and is worth \$200.00 They moreover say that the said Nancy Garrett is a very feeble Old Woman who cannot live long, and that the said



heirs of said Luke Garratt Did Say that they intend holding the same at her death.

And your Orator & Oratrix being without an adequate remedy at Common Law and relievable only in a Court of equity. Their prayer therefore is that the said Joseph Ely. — James Crabtree & Martha Crabtree, James Garratt, George Woolmer & Mary his Wife, Daniel Thompson & Emily his Wife, John Garratt & Wm Garratt be made parties Defs to this bill, and that each of them be required to make full true and perfect answers thereto on oath, that order of publication be made against said Crabtree & Wife, who are non residents of this State, that an injunction be granted by your Honor to stay all further proceedings upon said judgment until the matters herein contained can be fully heard and adjudicated, that upon a final hearing of the case the said injunction be perpetuated, and that such other and further relief be continued by your Hon, to your Orator & Oratrix in the premises as to justice and equity belongs, and is suited to the particular circumstances of their case. May it please your Honor to grant that the Commission altho writ of Spa be directed &c.

Kanes

Va Lee County Court:

This day William A Jones personally appeared before the undersigned a justice of the peace in and for said County and made oath that ~~that~~ the allegations contained in the foregoing bill are true so far as they depend upon his own knowledge and so far as they depend upon the information of others he believes them to be true; Given under my hand this 18<sup>th</sup> day of July 1839.

William Marshall C J. S.



Wm A Jones & Wife

vs  $\frac{1}{3}$  Bill

Joseph Cely assignor &c

Upon the execution of  
a release of error in the  
suit at law, and upon  
bond being executed with  
good security in a penalty  
double the amount of the  
judgment in the bill  
mentioned with condi-  
tions as prescribed by  
law, an injunction  
is granted as prayed  
for -

Saml. V. Sullivan

22 July 1859

C. Cir. C. Lee Co.

Left Rules Bill filed

R. M. Hamblen Clk

Bond executed Release of error filed  
19th day of Sept 1859

1859 C. Cir. Lee Co.

costs

County Ct	\$2.00
Circuit Ct	3.90
Attorney	15.00
	<hr/> 21.94

all chd. - 164



From A Jones & Wife  
vs  
Joseph Ely Apinee & Co.

} Decree

This cause came on, this 10<sup>th</sup> day of October 1860, to be heard, on the bill, answer, and exhibits filed, and was argued by Counsell, whereupon it is ordered, adjudged and decreed that the injunction heretofore granted in this cause be dissolved, ~~and that the Defendant pay to the Plaintiff his costs by him expended in defending, and damages at the rate of 10 per cent, and that the cause is continued till the next term, and the Plaintiff having prayed a suspension, it is further ordered that there be a suspension of execution for the period of Ninety days, on the Complainants executing a bond, with approved security, in the penalty of One hundred Dollars conditioned for the payment of all damage that may accrue by reason of said suspension. And the Cause is continued till the next term.~~

Wm. A Jones & Wife  
vs } Decree  
Jos Ely, & Spence & Co,

Octo. 1860

*[Handwritten flourish]*

11<sup>th</sup> Oct 1860 Dissolved

chd - 164.

Enter This  
S.V.F.

Entered



Va Lee County Court

This day William A Jones personally appeared before the undersigned Commissioner in chancery for the circuit court of Lee County Va and made oath that he would be taken at very great surprise to submit the chancery case of himself and wife vs Joseph Ely Affr. &c at the present ~~term~~ <sup>in which with that very great injustice would be done</sup> Special term of the circuit court of Lee County, because he says that it is a case in which Judge Fulkerson has not been counsel <sup>in</sup> on either side & that he had been informed that the Judge now holding said special term would only try such cases <sup>as</sup> that Judge Fulkerson had been counsel in; and from that fact, together with the additional fact that he had never been able to see Defts Answer until the present term of this court. This affiant failed ~~to~~ to take any testimony sustaining the allegations of his bill, & to make the necessary preparation for submitting the case at this term of the court; but intended to do so before the fall term of the circuit court of said County to be held by Judge Fulkerson. Affiant further states that at the Spring term of said court that the papers of said case were <sup>either</sup> lost or misplaced so that neither ~~him~~ nor his counsel could get to see them to know what was necessary on his part to be done in the case and he further states that Defts answer only appears to have been filed at the July Rules 1860 in this present month <sup>of which motion to dissolve he had no notice</sup> Given under my hand this 24th day of July 1860.

H. J. Morgan Comr. &c



Wm A. Jones & wife  
vs { Affiant  
Joseph C. Lee & son



I William A. Jones of Lee County do Release all  
error in a Judgment of the County Court  
at its June term 1837 in favor of Joseph Ely  
assignee of James Crabtree against me and Manassah  
Amos Jones. for \$400.00 with interests and costs  
Given under my hand and seal the 19<sup>th</sup>  
day of September 1837.

W<sup>m</sup> A Jones Seal



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *Joseph Ely, James Crabtree, & Martha Crabtree, James Garrett, George Wooliver, & Mary his wife Daniel Thompson & Emily his wife, John Garrett & William Garrett,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October* Rules next, to answer *a bill in Chancery exhibited in our said Court, against you by William A. Jones & Manasha Ann his wife.*

And have then there this writ. Witness, RICHARD M. HAMBLLEN, Clerk of our said Court, at the Court House, this *19<sup>th</sup>* day of *September* 18*89*, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen CMC*



S R

Wm A Jones wife  
vs Spain Ely  
Joseph Ely am ad

Ret. Rules 1837

September the 7<sup>th</sup> the 1837

Executed an James  
garnett by serving a copy  
with the defendant wife  
the defendant not being  
at his place of abode

and an Georg Woliver by serving copy with his  
wife the defendant not being at his usual place of abode  
Executed in Joseph Ely & John Garrett & Daniel  
Thompson & wife Woliver wife by handing them a copy  
and not on James Crabtree nor his wife them  
not being residents of Virginia William Garnett  
is not a resident of this commonwealth  
Samuel L. Saul S.S. For  
A R Russell S.L.C.

164

Joseph Ely  
vs Spain Ely  
all others concerned from further proceedings on a  
Adjournment of the County Court of the 21<sup>st</sup> June 1837  
by Joseph Ely assignee of James Crabtree for \$100.00  
with interest and cost against the complainant  
the further order of the Court.

doth

Wm. Thompson Ely



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING :

WE COMMAND YOU TO SUMMON

*Joseph Ely, James Crabtree  
& Martha Crabtree James Garrott George Wooliver  
& Mary his wife Daniel Thompson & Emily his wife  
John Garrott & William Garrott,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

October Rules next, to answer

*a bill in Chancery  
exhibited in our said Court against you  
by William A. Jones & Manasha Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLER, Clerk of our said Court, at the Court House,  
this 19<sup>th</sup> day of September 1857, in the 84<sup>th</sup> year of the Commonwealth.

*R. M. Hamblen CLK  
A Copy Test  
R. M. Hamblen CLK*



To enjoin the Defendant Joseph Ely his agents attorney  
and all others concerned from further proceedings on  
a judgment of the County Court of Lee at its June term  
1837 by Joseph Ely assignee of James Crabtree for \$400.00  
with interest and costs against the Complainants,  
till the further order of this Court.

Teste

R. W. Hamlin CLK



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

*Joseph Ely, James Crabtree &  
Martha Crabtree, James Garrott, George Woolver  
& Mary his wife, Daniel Thompson & Emily his  
wife, John Garrott, & William Garrott,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October*  
Rules next, to answer

*a bill in Chancery  
= filed in our said Court against you by  
William A. Jones & Manasha Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLER, Clerk of our said Court, at the Court House,  
this *19<sup>th</sup>* day of *September* 18*87*, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen CLK*  
*Copy sent*  
*R. M. Hamblen CLK*



To injoin the defendant Joseph Ely his agents  
attorney and all others concerned from further pro-  
ceedings and a judgment of the County Court of Lee at  
its June term 1857 by Joseph Ely assignee of James  
Coaktrie for \$100.00 with interest and costs against  
the complainants. till the further order of this  
Court

Test

R M Hamalen CK



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

*Joseph Ely, James Crabtree  
& Martha Crabtree, James Garrett, George  
Hooliver, & Mary his wife Daniel Thompson & Emily  
his wife, John Garrett, & William Garrett,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October* Rules next, to answer *a bill in Chancery exhibi-*  
*-ted in our said Court, against you by William A.*  
*Jones & Marastha Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLER, Clerk of our said Court, at the Court House,  
this *19<sup>th</sup>* day of *September* 1859, in the *8<sup>th</sup>* year of the Commonwealth.

*R M Hambler CLK*  
*Attest*  
*R M Hambler CLK*



To enjoin the defendant Joseph Ely his agent attorney  
and all others concerned from further proceedings on a  
Judgment of the County Court of Lee at its June term  
1857. by Joseph Ely assignee of James Craltre, for  
\$400.00 with interest and costs against the Complain-  
ants, till the further order of this Court.

Teste 7

J. M. Hamblin Clerk